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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,677	04/02/2004	Susan Watkins	66116-045-7	9783
25269	7590	12/23/2004	EXAMINER	
DYKEMA GOSSETT PLLC FRANKLIN SQUARE, THIRD FLOOR WEST 1300 I STREET, NW WASHINGTON, DC 20005			WELCH, GARY L	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/815,677	<b>Applicant(s)</b> WATKINS ET AL.	
	<b>Examiner</b> Gary L. Welch	<b>Art Unit</b> 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claim 1 is objected to because of the following informalities: It appears that "third" should be changed to --fourth-- in line 11.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grilliot et al. (U.S. 5,153,941) in view of Shweid (U.S. 3,833,938).

Grilliot et al. discloses a fire protective coat 30 having a collar 34 defining a right front portion 34R and a left front portion 34L and mounting a first attachment means 38 on the right front portion and a second attachment means 66 on the left front portion. The coat includes a throat protector 50 for protecting the throat area of a person wearing the coat and it includes an elongated tab 50 defining a front surface and a rear surface. Third 56 and fourth 60 attachment means is provided on the rear surface. The third attachment means 56 is detachably engaged with the first attachment means 38 and the fourth attachment means 60 is detachably engaged with the second attachment means 66. A flexible connector (40, 44, 54) means extends between the elongated tab 50 and the collar 14 so that when the first 38 and third 56 attachment means and said

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second 66 and fourth attachment 60 means are disengaged, the elongated tab 50 can freely hang downward from the collar.

However, Grilliot et al. does not disclose that the rear surface of the elongated tab is provided with fifth attachment means such that the fourth and the fifth attachment means can be interengaged to maintain the elongated tab in a folded state.

Shweid teaches a fire protective turnout coat 10 having a collar 20 defining right and left portions and attachment means 76 on the right front portion for securing an elongated tab 44 about the throat area of a person wearing the coat. The tab 44 includes an attachment means 72 for affixing to the attachment means 76 on the right front portion.

A second attachment means 74 is provided on the left front portion for affixing the elongated tab 44 in a folded state when stored (Figure 6). The elongated tab 44 is folded such that the attachment means 72 is protected from environmental conditions such as temperature and also from dirt and other debris (Figure 6). Therefore, Shweid teaches protecting the attachment means when the throat protector is not operably engaged. While Shweid does not teach placement of the attachment means on the rear surface of the tab so that the tab can be folded upon itself, the teaching of Shweid is functionally equivalent to the instant application. Merely placing the attachment means 74 on the rear surface of the tab in lieu of the coat collar is an obvious design choice and well within one of ordinary skill in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an attachment means on the rear surface of the

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elongated tab 50 of Grilliot et al. so that the tab can be folded upon itself as taught by Shweid thereby storing the tab when the throat protector is not operably engaged.

With regard to claims 2 and 3, the tab defines a right side edge, a left side edge, a top edge and a bottom edge. The bottom edge extends between the right and left edges along a convex curve and the top edge extends between the right and left edges along a concave curve (Col. 4, lines 35-39).

With regard to claim 4, the attachment means are hook and loop fasteners.

With regard to claim 5, it is well within one of ordinary skill in the art and an obvious design choice to chose which fasteners are hook and which are loop on the selected portions of the garment.

With regard to claims 6 and 7, the invention is disclosed above.

With regard to claim 8, the first and second attachment means are connected to an outer surface of the collar when the collar is in a raised position and are covered when the collar is folded down to a lowered position.

With regard to claims 9 and 10, the collar and tab are fabricated from a fire and heat resistant fabric material.

### ***Conclusion***

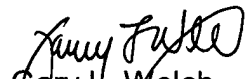
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hewitt '547 discloses a firefighters coat having a throat protector which stores about the collar. Grilliot et al. '319, '037 and '924, Aldridge '015, Ribicic '737 and Barbeau et al. '295 disclose various fire protective coats having a throat protector releasably engaged thereto.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary L. Welch whose telephone number is (571) 272-4996. The examiner can normally be reached on Mon-Fri 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gary L. Welch  
Primary Examiner  
Art Unit 3765

glw